



THE CITY OF NEW YORK
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January 25, 2022

Via ECF

Honorable Kiyo A. Matsumoto
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Elizabeth “Betsy” Combier v. Francesco Portelos, et al.*,
17-CV-2239 (KAM) (RLM)

Dear Judge Matsumoto:

I am an Assistant Corporation Counsel assigned to represent Defendants the New York City Department of Education (“DOE”) and former Chancellor Carmen Fariña (collectively, “City Defendants”) in the above-referenced action. I write in accordance with Your Honor’s January 5, 2022 Order and in response to Defendant and Counter Claimant Lucio Celli’s motion for a pre-motion conference, filed on December 28, 2021 at Dkt. No. 150. City Defendants oppose Mr. Celli’s request, and respectfully request that the Court deny Mr. Celli’s application and close this long-terminated action in its entirety.

By way of background, by Memorandum and Order dated September 29, 2018, the Honorable Margo K. Brodie adopted Magistrate Judge Roanne L. Mann’s July 5, 2018 Report and Recommendations and dismissed Plaintiffs’ Second Amended Complaint in its entirety, with prejudice; the Court also dismissed Mr. Celli’s counterclaims and denied Mr. Celli’s motions with respect to Plaintiffs’ stated damages and sealed documents. *See* Sept. 29, 2018 Order, Dkt. No. 144.¹ Plaintiff appealed, and the Second Circuit affirmed this Court’s rulings regarding Plaintiff’s claims, though did not consider Mr. Celli’s challenges to this Court’s dismissal of his counterclaims and denial of his various motions because those challenges were “untimely and because Celli did not file a notice of appeal.” *See* Oct. 9, 2019 Summary Order, Dkt. No. 147.

¹ City Defendants also note that this Court had prior to the dismissal order previously admonished Mr. Celli for filing multiple “harassing and duplicative motions” against Plaintiff. *See* May 22, 2018 Order, Dkt. No. 135.

This action was thus closed and without activity until Mr. Celli's recent filings beginning in November 2021. In fact, Mr. Celli's request for a premotion conference is related to an "Answer to Betsy's Lawsuit," filed on November 11, 2021 at Dkt. No. 148, and a "Motion to Dismiss Betsy Combier's Complaint and for the AUSA to Collect Taxes from her with a Motion to Transfer this to federal court," filed also on November 11, 2021 at Dkt. No. 149. City Defendants are confused by Mr. Celli's submissions, given the procedural history of this action as described above. It seems possible that Mr. Celli is attempting to remove a separate state court action (*see* "Answer," Dkt. No. 148 at 1; "Motion to Dismiss," Dkt. No. 149 at 1), but he has failed to provide the relevant state court papers, if that is indeed his intent. Of course, Mr. Celli has also failed to comply with the removal requirements set forth in 28 U.S.C. §§ 1441 and 1446, and should not be allowed to tack on a removal request concerning a separate lawsuit to the above-captioned, now-terminated action. Also, none of Mr. Celli's recent filings appears to involve or even consider the City Defendants. In fact, only the motion for a premotion conference identifies City Defendants in the caption and, like the "Answer" and "Motion to Dismiss," does not substantively discuss City Defendants at all.

Therefore, City Defendants respectfully request that the Court deny Mr. Celli's application, certainly in so far as any conference would involve City Defendants' participation, and instead terminate this action finally and in its entirety.

Thank you for your consideration of this matter.

Respectfully,

/s/

Ian William Forster
Assistant Corporation Counsel

cc: **Via ECF**

all counsel of record

cc: **Via U.S. Mail**

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